



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 606-00
28 March 2000

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you were discharged from the Marine Corps on 31 December 1993, and you enlisted in the Marine Corps Reserve the following day. Effective 1 September 1995, the Department of Veterans Affairs (VA) awarded you a 10% rating for a left ankle condition. The VA added a 10% rating for a right ankle condition effective 1 March 1999, after determining it was "as likely as not" that the condition was related to in-service trauma. On 30 December 1996, the Commander, Marine Reserve Forces directed that you be discharged by reason of misconduct, but your enlistment expired on 31 December 1996, before the misconduct discharge could be executed. On 9 September 1996, this Board denied your request for correction of your record to show that you reenlisted in the Marine Corps Reserve.

The Board concluded that your receipt of disability compensation from the VA is not probative of the existence of error or injustice in your case. In this regard, it noted that unlike the military services, the VA awards disability benefits without regard to the issue of fitness for military service. Although you incurred a number of medical conditions during

your service in the Marine Corps, there is no indication that any of them rendered you unfit for duty at the time of your discharge. It noted that in many of your fitness reports, to include your final report, your reporting seniors commented favorably on your level of physical fitness. In the absence of evidence of unfitness, the Board was unable to recommend any corrective action in your case.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director